

NOTICE OF RESERVATION OF RIGHTS

April 4, 2022

***Via Certified Mail
Return Receipt Requested and
First Class Mail***

Valle Trucking, LLC
13104 Regal Vintage Road
Oklahoma City, OK 73170

Insured: Valle Trucking, LLC
Policy #: GLG022472
Claimant: Tylon Mackey
Date of Loss: September 4, 2019
Loss Location: Hwy 51
Stillwater, OK 74075
IPG File #: 63522-077889

Dear Mr. Valle:

I am writing regarding the above-referenced claim. I represent Great Lakes Insurance SE ("Great Lakes"). Subject to Great Lakes' ongoing investigation of this claim with full reservation of rights as to coverage indemnity, we are writing to advise that Great Lakes shall defend you in the lawsuit entitled *Tylon Mackey v. Israel Jaurez, ORD Trucking Inc., Fredy N Valle Sr. d/b/a Valle Trucking and Silver Star Construction Company, Inc.* filed in Payne County, Case No. CJ-2020-233.

The name, address, and telephone number of the attorney that we have hired to defend you in this Lawsuit is:

Jeffrey A. Curran
Gable Gotwals
499 West Sheridan Avenue, Suite 2200
Oklahoma City, OK 73102
(405) 235-5537

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I have asked Mr. Curran to contact you directly as soon as possible.

Although Great Lakes shall defend you in the Lawsuit, Great Lakes expressly reserves all rights and defenses available under the above-referenced policy and at law to deny coverage to the extent certain terms, provisions, limits, conditions, exclusions, and endorsements may apply. Great Lakes' investigation is ongoing, and we invite you to provide this office with any additional documents and information you believe may be material to this matter. We request that you keep this office fully informed of the status of this matter and timely forward any pertinent documents and information to this office.

GENERAL POLICY INFORMATION

Great Lakes issued Insurance Policy No. GLG022472 (the "Policy") issued you a policy on February 20, 2019, covering a policy period from February 11, 2019, to February 11, 2020.

The Commercial General Liability Coverage Part Declarations state the following:

General Aggregate Limit (Other Than Projects Completed Operations) - \$1,000,000
Products/Completed Operations Aggregate Limited - Included
Personal and Advertising Injury Limited - \$1,000,000
Each Occurrence Limit - \$1,000,000
Damage to Premises Rented to You Limit - \$50,000 any one premises
Medical Expense Limit- \$5,000 any one person

BACKGROUND INFORMATION

The named insured under the Policy is Valle Trucking, LLC. The insured has made a claim upon their policy for coverage for an automobile accident where a subcontractor's employee was in an accident with the Plaintiff.

In the complaint, the Plaintiff, Tylon Mackey, alleges that Defendant, Israel Juarez, who was employed by ORD Trucking, was operating a vehicle owned by ORD Trucking, traveling northbound, and failed to yield the right-of-way from a stop sign at the intersection of State Highway 51 and Murphy Street near Stillwater, Oklahoma, and violently collided with the Plaintiff causing severe injury. Plaintiff alleges that Juarez was employed by ORD Trucking, Valle Trucking, and Silverstar while operating his vehicle. Plaintiff has also alleged that the motor vehicle driven by Juarez was unsafe and improperly inspected, repaired, and maintained. When it comes to causes of action, they have alleged negligence, negligence per se, and negligent hiring, training, screening, and supervision.

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RESERVATION OF RIGHTS BY GREAT LAKES INSURANCE

The Policy may not provide you with any coverage of the claim. We are still investigating whether the claim is fully or partially covered under the Policy.

The Policy includes provisions in the following forms relevant to our evaluation of coverage of the claim:

A. Insuring Agreement (Form CG 00 01 07 98)

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of the “bodily injury” or “property damage” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking those damages. However, we will have no duty to defend the insured against any “suit” seeking damages for “bodily injury” or “property damage” to which this insurance does not apply. We may, at our discretion, investigate any “occurrence” and settle any claim or “suit” that may result....

* * *

- b. This insurance applies to “bodily injury” and “property damage” only if:
 - (1) The “bodily injury” or “property damage” is caused by an “occurrence” that takes place in the “coverage territory”;
 - (2) The “bodily injury” or “property damage” occurs during the Policy period; and

* * *

B. Contractual Liability Exclusion

The “Contractual Liability” exclusion may be applicable in this case. Such exclusion provides:

2. Exclusions

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This insurance does not apply to:

* * *

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement....

* * *

C. *Aircraft, Auto or Watercraft Exclusion*

This policy contains an exclusion for Aircraft, Auto or Watercraft and may be applicable in this case. It is modified by endorsement to the policy. Such exclusion and endorsement provides:

2. Exclusions

This insurance does not apply to:

* * *

g. Aircraft, Auto Or Watercraft (GL235-GL)

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading" .

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

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This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

D. Exclusion for Sub-Subcontractor's Work

The Policy contains an exclusion for any work performed by any sub-subcontractors, as follows:

EXCLUSION – INDEPENDENT CONTRACTORS (GL 115-GL)

This endorsement modifies insurance under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to "bodily injury", "property damage", "personal injury", "advertising injury" or medical payments arising out of:

- a) the acts or omissions of independent contractors while working on behalf of any insured, or
- b) the negligent:
 - (i) hiring or contracting;
 - (ii) investigation;
 - (iii) supervision;
 - (iv) training;
 - (v) retention;of any independent contractor for whom any insured is or ever was legally responsible and whose acts or omissions would be excluded by (a) above.

As used throughout this endorsement, the term "Independent Contractors" includes Subcontractors.

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E. Exclusion for Punitive Damages

The Policy contains a punitive damages exclusion, which provides the following:

COMBINATION ENDORSEMENT – 1 (GL041-GL)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

* * *

3. EXCLUSION – PUNITIVE DAMAGES

This insurance does not apply to any claim or indemnification for punitive or exemplary damages. If a suit seeking both compensatory and punitive or exemplary damages has been brought against you for a claim covered by this Policy, we will provide defense for such action. We will not have any obligation to pay for any costs, interests or damages attributable to punitive or exemplary damages.

CONCLUSION

Based upon the information and documentation provided to date, Great Lakes' listing of the foregoing basis for reserving its rights does not limit any additional grounds that Great Lakes may have for reserving its right to deny coverage as facts are developing. Great Lakes' reference to the foregoing terms, conditions, limits, exclusions and endorsements should not be interpreted as a waiver or an estoppel on its part to assert any and all terms, conditions, limits, exclusions, endorsements or policy defenses should additional facts, changing law, or amended claims come to Great Lakes' attention.

Great Lakes' reservation of rights contained herein is based entirely on the information that is known to Great Lakes at this time and is made without prejudice. Great Lakes will be happy to consider any additional information and documentation that you provide to us that may be relevant to the issue of coverage and damages incurred. Great Lakes requests that you immediately notify it if any additional facts come to light so that it may re-evaluate its position with respect to this matter. Should you have any questions about this matter, please contact me.

If you have any questions or need additional information, please do not hesitate to contact me.

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Sincerely,
International Programs Group

A handwritten signature in black ink, appearing to read "Jade Foster". The signature is fluid and cursive, with the first name "Jade" and last name "Foster" clearly distinguishable.

Jade Foster, MBA, SCLA
Examiner
Jade.Foster@ipgclaims.com
Phone: (501) 725-3358
Fax: (501) 725-3358

cc: John F. Thill
Jaeger + Haines, Inc.
Via Email: j.f.thill@jplush.com